

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CRIM. NO. 10-20403

HON. NANCY G. EDMUNDS

v.

D-1 KWAME M. KILPATRICK,  
D-2 BOBBY W. FERGUSON,  
D-3 BERNARD N. KILPATRICK,  
D-4 VICTOR M. MERCADO, and  
D-5 DERRICK A. MILLER,

Defendants.

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**STIPULATION AND ORDER REGARDING TRIAL DATE AND FINDINGS RE  
EXCLUDABLE TIME UNDER THE SPEEDY TRIAL ACT**

IT IS HEREBY STIPULATED AND AGREED, by and between defendant Kwame M. Kilpatrick and his attorney James Thomas, defendant Bobby W. Ferguson and his attorney Gerald Evelyn, defendant Bernard N. Kilpatrick and his attorney John Shea, defendant Victor M. Mercado and his attorney Martin Crandall, defendant Derrick A. Miller and his attorney Byron Pitts, and the United States of America, through its attorneys of record, that:

1. Defendant Kwame M. Kilpatrick made his initial appearance on the indictment on July 13, 2010;

2. Defendants Kwame M. Kilpatrick, Bobby W. Ferguson, Bernard N. Kilpatrick, Victor M. Mercado and Derrick A. Miller made their initial appearance on the First Superseding Indictment on January 10, 2011;

3. The court held a status conference with the parties on January 10, 2011, at which time the court discussed the case with the parties and set a subsequent status conference date of April 13, 2011;

4. The court held a second status conference with the parties on April 13, 2011, at which time the court set a trial date of September 6, 2012, as well as a status conference date of June 27, 2011;

5. Due to the nature of the prosecution, which follows a multi-year investigation by the FBI, IRS-CID, EPA-CID and United States Attorney's Office and includes, among other things, voluminous wiretap evidence and tape recorded conversations, thousands of pages of reports of witness interviews and financial records, numerous grand jury witnesses and hundreds of thousands of text messages, this case is so unusual and complex that it is unreasonable to expect adequate preparation for pretrial proceedings and the trial itself within the time limits established by the Speedy Trial Act;

6. Counsel for defendants must review all of the discovery and effectively prepare for pretrial proceedings and trial, which cannot be accomplished within the time period of the Speedy Trial Act, taking into account the exercise of due diligence; and

7. The period from April 13, 2011, through September 6, 2012, inclusive, is excludable under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7), as a period of delay resulting from a continuance requested by counsel for defendants and counsel for the government. The ends of justice served outweigh the best interest of the public and the defendant in a speedy trial because the case is so unusual and complex due to the nature of the

prosecution that it is unreasonable to expect adequate preparation for pretrial proceedings and for trial within the time limits of the Speedy Trial Act, and to allow counsel for the defendants the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

**SO STIPULATED:**

DATED: April 13, 2011

s/R. Michael Bullotta  
R. MICHAEL BULLOTTA  
Assistant United States Attorney

DATED: April 13, 2011

s/Mark D. Chutkow  
MARK D. CHUTKOW  
Assistant United States Attorney

DATED: June 28, 2011

s/Kwame M. Kilpatrick  
KWAME M. KILPATRICK  
Defendant

DATED: June 28, 2011

s/James Thomas  
JAMES THOMAS  
Counsel for defendant Kwame M. Kilpatrick

DATED: April 19, 2011

s/Bobby W. Ferguson  
BOBBY W. FERGUSON  
Defendant

DATED: April 19, 2011

s/Gerald Evelyn  
GERALD EVELYN  
Counsel for defendant Bobby W. Ferguson

DATED: May 24, 2011

s/Bernard N. Kilpatrick  
BERNARD N. KILPATRICK  
Defendant

DATED: May 24, 2011

s/John Shea  
JOHN SHEA  
Counsel for defendant Bernard N. Kilpatrick

DATED: May 24, 2011

s/Victor M. Mercado  
VICTOR M. MERCADO  
Defendant

DATED: May 24, 2011

s/Martin Crandall  
MARTIN CRANDALL  
Counsel for defendant Victor M. Mercado

DATED: May 2, 2011

s/Derrick A. Miller  
DERRICK A. MILLER  
Defendant

DATED: April 18, 2011

s/Byron Pitts  
BYRON PITTS  
Counsel for defendant Derrick A. Miller

The Court finds that the ends of justice are served by granting a continuance and that the continuance outweighs the best interests of the public and Defendants in a speedy trial. Due to the number of Defendants, the nature of the prosecution, and the existence of novel questions of fact and law, this case is so unusual and complex that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by the

Speedy Trial Act. Accordingly, for the reasons stated more fully on the record and because Defendants' rights to due process and to effective assistance of counsel outweigh the public's and Defendants' interests in a speedy trial, this Court finds that the period of delay between April 13, 2011 and September 6, 2012 is excludable under 18 U.S.C. § 3161(h)(7)(A).

**IT IS FURTHER ORDERED** that trial shall begin on **September 6, 2012 at 9:00 a.m.**

s/Nancy G. Edmunds  
Nancy G. Edmunds  
United States District Judge

Dated: June 29, 2011

I hereby certify that a copy of the foregoing document was served upon counsel of record on June 29, 2011, by electronic and/or ordinary mail.

s/Carol A. Hemeyer  
Case Manager